

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**KEITH BRASWELL, et al.,**

**Plaintiffs,**

**v.**

**RICHARD ALLEN, et al.,**

**Defendants.**

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**CIVIL ACTION NO. 2:07-CV-833**

**DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT**

Come now Defendants Richard Allen, Commissioner of the Alabama Department of Corrections and Charles Hadley, former Warden at the Alabama Department of Corrections, and submit this motion for summary judgment based on the following grounds:

1. Since Plaintiffs Underwood and Braswell failed to file their complaint within ninety days from the time each received their "right to sue" letter, their Title VII claims are barred as a matter of law.
2. Since Defendant Hadley was merely the charging officer and not the final decision-maker with respect to employment decisions challenged, Hadley is entitled to summary judgment as a matter of law.
3. Plaintiffs have failed to prove the necessary elements for a Title VII/Fourteenth Amendment race discrimination claim.
4. Plaintiffs failed to establish the necessary elements for a Title VII retaliation claim.
5. With respect to Plaintiffs' Section 1983 retaliation claims, Plaintiffs cannot overcome Defendants' "Mt. Healthy" defense.

6. Defendants Allen and Hadley, in their individual capacities, are entitled to qualified immunity with respect to Plaintiffs' damages claims.

7. The Eleventh Amendment prohibits the award of any money damages under section 1983 against the Defendants in their official capacities.

Wherefore the premises considered, along with the Defendant's supporting evidentiary materials and memorandum brief in support of the motion for summary judgment, Defendants Allen and Hadley pray this Honorable Court to grant summary judgment in its favor and that cost be assessed against the Plaintiffs.

Respectfully submitted,

Kim T. Thomas (THO115)  
General Counsel

/s/ Bart Harmon  
Bart Harmon (HAR127)  
Assistant General Counsel

**OF COUNSEL:**

Alabama Department of Corrections  
Legal Division  
P. O Box 301501  
Montgomery, Alabama 36130  
PHONE: (334) 353-4859  
FAX: (334) 353-3891

**CERTIFICATE OF SERVICE**

I hereby certify that on the 4<sup>th</sup> day of September, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non-CM-ECF participants):

K. Anderson Nelms, Esq.  
Law Offices of Jay Lewis, LLC  
Attorney for the Plaintiffs  
847 South McDonough Street, Suite 100  
Montgomery, AL 36104

/s/ Bart Harmon  
Bart Harmon (HAR127)  
Assistant General Counsel